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VIBRANT AMERICA, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA ex rel. STF,
LLC, an organization; STATE OF
CALIFORNIA; ex rel. STF, LLC, an
organization,

Plaintiffs,

vs.

VIBRANT AMERICA, LLC, a Delaware limited
liability company,

Defendants.

Case No. 16-cv-02487-JCS

**[PROPOSED] ORDER GRANTING
DEFENDANT VIBRANT AMERICA LLC'S
MOTION TO DISMISS RELATOR'S
COMPLAINT**

HONORABLE JOSEPH C. SPERO

PROPOSED ORDER

On May 18, 2020, Defendant Vibrant America filed its Motion to Dismiss Relator's Complaint.

Having carefully considered the moving and opposition papers, accompanying memoranda, arguments, and all other matters presented to this Court, the Court finds as follows:

1. Relator has failed to plead conduct that violates the Anti-Kickback Statute.
2. Relator has failed to plead fraud with particularity as required under Rule 9(b).
3. Relator has failed to sufficiently plead materiality under *Escobar*.
4. Relator has failed to sufficiently plead scienter.
5. Relator does not have standing to assert claims under the California Insurance Frauds Prevention Act.
6. Relator has failed to state a plausible claim on which relief can be granted.

IT IS HEREBY ORDERED THAT Defendant Vibrant America's Motion to Dismiss is GRANTED. The Complaint against Vibrant America is dismissed with prejudice.

Dated: _____, 2020

THE HONORABLE JOSEPH C. SPERO
Chief Magistrate Judge